IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9932 of 2005

to

SPECIAL CIVIL APPLICATION No.9935 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE KSHITIJ R.VYAS

HON'BLE MR.JUSTICE AKSHAY H.MEHTA

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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DINESH PREMJIBHAI SOLANKI - Petitioner(s)

Versus

STATE OF GUJARAT &3 - Respondent(s)

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Appearance :

MR RM CHHAYA for Petitioner No(s).: 1.

MR H.L.JANI Ld.A.G.P., for Respondent No(s).: 1.

DS AFF.NOT FILED (N) for Respondent No(s).: 1,4.

MR JASWANT K SHAH for Respondent No(s).: 2.

MR AMAR D MITHANI for Respondent No(s).: 3.

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CORAM :HON'BLE MR.JUSTICE KSHITIJ R.VYAS

HON'BLE MR.JUSTICE AKSHAY H.MEHTA

Date : 07/07/2005

ORAL JUDGMENT

(Per : HON'BLE MR.JUSTICE AKSHAY H.MEHTA)

1. Rule. Service of rule is waived by learned AGP Mr.H.L.Jani for respondent no.1 by learned Advocate Shri Jaswant Shah for respondent no.2 and by learned Advocate Shri Amar Mithani for respondent no.3. At the request of the learned Advocates, the petition is finally heard today.

2. The petitioners have approached this Court in view of the proposed action that is to be taken by respondent no.3 for evicting them from the land in question. It is the say of the petitioners that the said land formerly belonged to the Government but, in view of the provisions of the Gujarat Municipalities Act, 1960, subsequently the said land came to be vested in respondent no.3. The said land was allotted to them for carrying on their business by installing cabins and/or raising temporary construction on it. According to the petitioners the cabins are the only source of their livelihood and if they are displaced from the said place their plight will be very miserable. It appears that as a part of the Town Development, a commercial complex is to be constructed at the said place by respondent no.3.

3. We have heard the learned Advocates appearing for the parties. It is stated by Mr.Mithani, learned Advocate for respondent no.3 that respondent no.3 will make a suitable provision for the petitioners by allotting them a space of business on lease in one of the commercial centers that may be developed by respondent no.3. In the meanwhile, the petitioners will be provided with an alternative suitable site so as to enable them to continue their business even after they are displaced from the present site. It is further stated by Mr.Mithani that the petitioners will have to submit proper applications requesting for allotment within fortnight from the date of the order for the allotment of shops or suitable space in the commercial complex that may be developed by respondent no.3 and upon scrutiny of the said applications the decision will be taken in that behalf. Mr. Mithani makes this statement upon instruction received by him from the President of respondent no.3.

4. Mr.R.M.Chhaya, learned Advocate for the petitioners, assures the Court that the petitioners will co-operate in all respect with respondent no.3. He has further requested the Court that as and when such applications are made, the respondent no.3 be directed to consider them sympathetically so as to see that the petitioners are not rendered without any source of income.

5. In view of the aforesaid, we direct that upon determination and allotment of the temporary alternative site, the petitioners will vacate the present premises and handover the site to respondent no.3. Further, within a period of 15 days from the date of the order the petitioners shall make appropriate applications to respondent no.3 and respondent no.3 shall consider the said applications sympathetically and try to provide them suitable site as early as possible in accordance with alternative site allotment policy made by it. In view of this direction, nothing more is required to be done in the petition and the petition stands disposed of accordingly. Rule discharged with no order as to costs.

(KSHITIJ R.VYAS, J.)

(AKSHAY H.MEHTA, J.)

07.07.2005

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